THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.17038 OF 2004

Dated 09-04-2007

Between:

M/s Krishna Spices (P) Ltd … Petitioner

And

The Commissioner of Commercial
Taxes and another .. Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.17038 OF 2004

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties and with their consent, the writ petition is being disposed of.

Counter had been filed.

The writ petition is pending in this Court from 2004 and subject matter of the writ petition is a Circular issued by the Commissioner of Commercial Taxes on 27-05-2004. The Commissioner of Commercial Taxes in the beginning of the Circular has stated that there is no uniformity regarding revision of assessment consequent on decisions rendered by the Courts on issues of exigibility to tax, commodity classification etc. Thereafter, he proceeded to give an example with regard to the traders dealing with turmeric and referred to a judgment of this Court in ***State of Andhra Pradesh vs. Vasavi Traders, Gadwal and others*** (35 APSTJ 139) and tried to interpret the judgment and thereafter gave directions as to how the assessing authorities/revisional authorities should proceed in the matter. We have already held that the authorities, which are responsible for assessing the tax or hearing the appeals or revisions, are

quasi-judicial authorities and they have to decide the matters,

which come before them on merits in accordance with law, as they understand. Where Circulars are issued which want the quasi-judicial authorities to act in a particular manner have always not been appreciated by this Court.

In this view of the matter, the writ petition is disposed of by directing the assessing authorities/revisional authorities to dispose of whatever matters are pending before them with regard to the dealers in turmeric and decide the issues before them in accordance with law unmindful of the directions or suggestions given by the Commissioner of Commercial Taxes in the Circular dated 27-05-2004. They shall also consider the judgments available on the subject and pass appropriate orders. If the petitioner has not filed so far any objections to the show cause notice, which was subject matter of this writ petition, he may do so within ten days. No order as to costs.

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(Bilal Nazki,J)

Dated 9th April, 2007

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(Nooty Ramamohana Rao,J)

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